



POSTAL SERVICE

39 CFR Part 111

Periodicals Requester Records Requirements

AGENCY: Postal Service™.

ACTION: Proposed rule.

SUMMARY: The Postal Service proposes to amend *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM®) to revise verification requirements for authorized audit bureaus.

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER.]**

ADDRESSES: Comments may be mailed or delivered to Dale Kennedy (Director, Product Classification), United States Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260-1101; or submitted to pcfederalregister@usps.gov. Faxed comments will not be accepted.

All written comments may be inspected and photocopied, by appointment only, at Postal Service Headquarters Library, 475 L'Enfant Plaza SW, 11th Floor North, Washington, DC. These records will be available for review Monday through Friday, 9 a.m. - 4 p.m., by calling 202-268-2906. All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Dale Kennedy at (202) 268-6592.

SUPPLEMENTARY INFORMATION: The Postal Service is publishing this notice of proposed rulemaking to enact new procedures for auditing compliance with circulation standards for Periodicals requester publications and standardize

existing procedures across Postal Service publications. The Postal Service is also using this opportunity to update its listing of authorized audit bureaus for Periodicals verification and requests each authorized audit bureau notify the Postal Service to confirm its status.

Domestic Mail Manual (DMM) 207.6.4.2a provides that a Periodicals requester publication must have a legitimate list of persons who have requested the publication and 50% or more of the copies must be distributed to persons making such requests. Publishers can use a variety of records to verify each publication sent at the Periodicals rate is distributed to a legitimate list of requesters, including “Individual and bulk orders for subscriptions and nonsubscriber copies.” DMM 207.8.1.4b. The Postal Service interprets DMM 207.8.1.4b to encompass written proof in the form of email communications, telephone, or Internet. Customer Support Ruling (CSR) PS-054 (207.6.4). The Postal Service now proposes to clarify that it will extend that interpretation to text messages as well, given the growth in text message communication.

If, after public comment, the Postal Service decides to extend the interpretation in such manner, it will update CSR PS-054 to add procedures for the evaluation of text message requests. In addition, the Postal Service will make conforming changes in a new section E-0.4 to Appendix E of DM-204 to notify audit bureaus of its verification requirements for text messages and throughout DM-203 to standardize records retention requirements and to add Text Message requests. Finally, the Postal Service plans to remove a reference to Form 3845 in CSR PS-054, which is no longer in use.

The Postal Service also authorizes audit bureaus to conduct verifications of circulation for applications for Periodicals mailing privileges. DMM 207.8.2.2. The list of audit bureaus authorized to verify circulation of Periodicals publication

are listed in CSR PS-054. However, the Postal Service currently has limited visibility into each audit bureau's procedures for verification of publisher records. Because disparate practices between different authorized audit bureaus could lead to inconsistent enforcement of the Postal Service's verification requirements, the Postal Service proposes an update to the DMM explicitly reserving to the Postal Service the right to review each authorized audit bureau's policies and procedures and periodically inspect each bureau for compliance.

The Postal Service also proposes an update to DMM 207.8.1.3 to add record retention requirements for authorized audit bureaus. Publishers are required to keep circulation records for 3 years following the issue date of the publication. DMM 207.8.1.3. The Postal Service's proposed update to DMM 207.8.1.3 would impose a similar requirement on authorized audit bureaus and require publishers to retain records for paid subscribers for 12 months.

If the Postal Service adopts the proposed DMM changes, it will make conforming updates in CSR PS-054 and Handbook DM-204 (Applying for Periodicals Mailing Privilege) to add minimum requirements for acceptance of text (SMS and MMS) messages for the purpose of auditing Periodicals requests. The Postal Service will also publish an appropriate amendment to 39 CFR part 111 to reflect these changes if this proposal is adopted.

Finally, the Postal Service believes that its agreements with authorized independent audit bureaus are out of date and is therefore reviewing those agreements. Once this rulemaking is concluded, the Postal Service will decide whether to renegotiate the agreements to bring them up to date and would then publish a new list of authorized audit bureaus in CSR PS-054.

The Postal Service proposes the following changes to *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM), incorporated by reference in the *Code of Federal Regulations*. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR part 111 is amended as follows:

PART 111 – [AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301-307; 18 U.S.C. 1692-1737; 39 U.S.C. 101, 401-404, 414, 416, 3001-3018, 3201-3220, 3401-3406, 3621, 3622, 3626, 3629, 3631-3633, 3641, 3681-3685, and 5001.

2. Revise the *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM) as follows:

***Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM)**

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200 Commercial Mail Letters, Flats, and Parcels

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207 Periodicals

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8.0 Record Keeping Standards for Publishers

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8.1 Basic Standards

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[Revise 8.1.3 to read as follows:]

8.1.3 Retention

The publisher must keep records for each issue of a publication for 3 years from its issue date, except for circulation records for general or requester publications for which USPS verification of circulation is done by a USPS- authorized audit bureau. In addition, the publisher must retain records for paid subscribers for 12 months following the issue date. A publisher whose records are verified by an authorized audit bureau is not required to keep source records of requests and subscriptions longer than required by the audit bureau, provided, however, the authorized audit bureau shall be required to retain records related to such requests and subscriptions for 3 years following each issue date.

8.2 Verification

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[Revise 8.2.2 to read as follows:]

8.2.2 Authorized Verification

USPS employees or an authorized audit bureau may conduct verifications of circulation for an application for Periodicals mailing privileges, reentry application, or other required circulation verification of general or requester publications, provided, however, that the Postal Service will have the authority to review audit procedures upon request. In addition, the Postal Service reserves the right to verify each audit bureau's compliance with such audit procedures. The Postal Service shall have the authority to revoke any audit bureau's authorization to conduct verifications if it finds such audit bureau has failed to follow approved audit procedures.

Joshua J. Hofer,

Attorney, Ethics & Legal Compliance.

